IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.RAMKUMAR

MONDAY, THE 2ND JULY 2007 / 11TH ASHADHA 1929

Crl.Rev.Pet.No. 2510 of 2007()

C.C. NO. 368/2001 OF CHIEF JUDL. MAGISTRATE, KASARGOD

REVN. PETITIONER: PETITIONERS/APPELLANTS/ACCUSED

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1. MAHABALA NAYAK, S/O.SHANKARAPPA NAYAK, GANGAI CROSS ROAD, R.D.NAGAR, KUDLU VILLAGE.

2. DIVAKARA NAYAK, S/O.SHANKARAPPA NAYAK, GANGAI CROSS ROAD, R.D.NAGAR, KUDLU VILLAGE.

3. CHIDAMBARAN, S/O.AYYAPPA NAYAK, PANDY, ADOOR VILLAGE.

BY ADV. SRI.M.RAMESH CHANDER

RESPONDENTS: RESPONDENTS/COMPLAINANT

STATE OF KERALA, REP. BY ITS PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI. K.S. SIVAKUMAR

THIS CRIMINAL REVISION PETITION HAVING COME UP FOR ADMISSION ON 02/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

V. RAMKUMAR, J.

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Crl.R.P. No. 2510 of 2007

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Dated, this the 2nd day of July 2007

ORDER

Revision Petitioners who were the accused in C.C. No. 368 of 2001 on the file of the Chief Judicial Magistrate's Court, Kasaragod were convicted under Secs. 452, 341, 323, 324 and 506 (ii) read with Sec. 34 I.P.C. Their conviction was confirmed in appeal. It is the concurrent conviction and sentence which is assailed in this Revision

2. In fact, the lower appellate court noticed the fact that having regard to the facts and circumstances of the case, the revision petitioners deserve leniency in the sentence. However, that court imposed rigorous imprisonment for a period of two years under Sec. 452. read with Sec. 34 I.P.C. and rigorous imprisonment for one year under Sec. 324 read with Sec. 34 I.P.C. and imprisonment for one month under Sec. 341 I.P.C.

3. Having regard to the facts and circumstances of the case and the extent of injury sustained by P.W.1 the de facto complainant, I am of the view that penal servitude by way of incarceration is not warranted. Interests of justice be adequtely

will adequately be met by directing the revision petitioners to compensate the victim and by imposing nominal imprisonment of one till the rising of the court. Accordingly, confirming the conviction recorded against the revision petitioners the sentence imposed on them is modified as below:-

> For the conviction under the aforementioned offences, the revision petitioners shall each undergo imprisonment till the rising of the court and shall each pay a fine of Rs. 5,000/- (Rupees five thousand only) within 45 days from today for each of the aforesaid offences and on default to pay the fine, shall each undergo simple imprisonment for three months. From out of the fine amount as and when realised, a sum of Rs. 10,000/- (Rupees ten thousand only) shall be paid to the injured (P.W.1).

This Revision is disposed of as above.

V. RAMKUMAR,
(JUDGE)

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